IN THE HIGH COURT OF JUDICATURE FOR

RAJASTHAN AT JODHPUR

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O R D E R

Raghuveer Singh
Vs.
State of Rajasthan & Ors.

S.B. CIVIL WRIT PETITION NO.3359/2002
UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA.

DATE OF ORDER :: 05th September, 2006

PRESENT

HON'BLE SHRI JUSTICE MOHAMMAD RAFIQ

Mr.D.K. Gaur, Advocate for the petitioner.
Mrs.Suman Porwal Advocate on behalf of
Mr.Sangeet Lodha, Advocate for the respondents.

BY THE COURT

The petitioner has challenged the award dated 14th September, 2001 passed by the learned Labour Court, Sri Ganganagar. The learned labour court in this award while answering the reference made to it by the appropriate Government held that removal of the workman by Management

(Rajasthan State Road Transport Corporation), was legal and justified and the workman was not entitled to any relief.

That the facts of the case are that the petitioner was appointed on the post of Conductor vide order dated 13th July, 1982. While he was on duty with the bus, he lost his bag in which, there were tickets worth Rs.5,030/- and way-bill. Out of which tickets worth Rs.3,500/- were already sold and the petitioner deposited amount of Rs.3,500/- with the Corporation. Appointment of the petitioner was made initially on 13.07.1982 on daily wage basis and thereafter on account of his negligence for having lost the bag, he was discharged from duties. Then he was again appointed as conductor vide order dated 04.05.1983 @ Rs.12/- per day. Thereafter this amount was increased to Rs.15/- per day by order dated 11.07.1983.

It was thereafter when the petitioner was again on duty with a bus on 14.05.1983, the checking party intercepted the bus and found two passengers were in the bus without having valid tickets. The concerned Inspector made remarks on the way bill. When the petitioner was on duty with bus No.7103 on 01.03.1983, he was again found carrying three passengers without ticket on the route to Sri Ganganagar. On inquiry it transpired that although the petitioner realized the money from

the passengers but did not issue tickets to them. When he was found repeatedly indulging in carrying the passengers without tickets, his services were terminated w.e.f. 01st March, 1984 and his name was struck off from the duty chart.

Learned labour court after hearing arguments of the parties held that the removal of the petitioner was legal and justified and therefore answered the reference accordingly.

I have heard Mr.D.K. Gaur, learned counsel for the petitioner and Mrs. Suman Porwal, learned counsel for the respondents and perused the record.

Mr.D.K. Guar, learned counsel for the petitioner argued that the petitioner had completed 240 days in the calendar year immediately preceeding the date of his removal therefore he could not be removed without compliance of Section 25-F of the Industrial Disputes Act. He also argued that the petitioner in his affidavit filed before the learned labour court has asserted that the persons junior to him were continued in employment and his removal was made in breach of Section 25-G of the Industrial Disputes Act. He further argued that the petitioner should have have been given at lease one more change to improve himself and the Management ought to have taken a lenient view.

On the other hand, Mrs. Suman Porwal, learned counsel for the respondents argued that petitioner was guilty of repeatedly indulging in misconduct of carrying passengers without tickets. Since he was appointed only on daily wage basis, there was no necessity to either conduct any regular inquiry or to make compliance of Section 25-F and 25-G of the Industrial Disputes Act.

I have given my thoughtful consideration to the arguments advanced by both the learned counsel for the parties and perused the records.

In the facts of the case, it is not in dispute that the petitioner's appointment was made on daily wage basis. While he was initially appointed on 13.07.1982, his services were put to an end when he lost the bag on 15.01.1983. He was again appointed by order dated 04.05.1983 @ Rs.12/- per day. Within ten days of his reappointment, the petitioner was found to indulge in the misconduct of carrying two passengers again without tickets. He was again found to indulge in similar misconduct when the inspecting party found three more passengers without having any ticket in Vehicle No.7103 on 01.03.1984. On further inquiry it transpired that although the petitioner charged the amount of fair from the passengers but

did not issue any tickets to them. Though the petitioner has alleged that persons junior to him were retained in service but has not given any particulars or the details of such persons and therefore also such an argument cannot be accepted.

In the facts of the present case, when the appointment of petitioner was made only on daily wage basis and that too on the post of conductor, he failed to live up to the confidence reposed in him by the Corporation. In the circumstances, the arguments that provision of Sections 25-F and 25-G were violated would not be available to the petitioner. I do not find any error apparent on the face of record in the award passed by the learned Tribunal.

Accordingly the writ petition is dismissed. There shall be no order as to costs.

[MOHAMMAD RAFIQ],J.

Ashwini/-